

§ 370.106

5 CFR Ch. I (1–13 Edition)

§ 370.106 Terms and conditions.

(a) A Federal employee detailed under this part:

(1) Remains a Federal employee without loss of employee rights and benefits attached to that status. These include, but are not limited to:

- (i) Consideration for promotion;
- (ii) Leave accrual;
- (iii) Continuation of retirement benefits and health, life, and long-term care insurance benefits; and
- (iv) Pay increases the employee otherwise would have received if he or she had not been detailed;

(2) Remains covered for purposes of the Federal Tort Claims Act, and for purposes of injury compensation as described in 5 U.S.C. chapter 81; and

(3) Is subject to any action that may impact the employee's position while he or she is detailed.

(b) An individual detailed from a private sector organization under this part:

(1) Is deemed to be an employee of the Federal agency for purposes of:

(i) Title 5, United States Code, chapter 73 (Suitability, Security, and Conduct);

(ii) Title 18, United States Code, section 201 (Bribery of Public Officials and Witnesses), section 203 (Compensation to Members of Congress, Officers, and Others in Matters Affecting the Government), section 205 (Activities of Officers and Employees in Claims Against and Other Matters Affecting the Government), section 207 (Restrictions on Former Officers, Employees, and Elected Officials of the Executive and Legislative Branches), section 208 (Acts Affecting a Personal Financial Interest), section 209 (Salary of Government Officials and Employees Payable Only by the United States), section 603 (Making Political Contributions), section 606 (Intimidation to Secure Political Contributions), section 607 (Place of Solicitation), section 643 (Accounting Generally for Public Money), section 654 (Officer or Employee of United States Converting Property of Another), section 1905 (Disclosure of Confidential Information Generally), and section 1913 (Lobbying with Appropriated Moneys);

(iii) Title 31, United States Code, section 1343 (Buying and Leasing Pas-

senger Motor Vehicles and Aircraft), section 1344 (Passenger Carrier Use), and section 1349(b), (Adverse Personnel Actions);

(iv) The Federal Tort Claims Act and any other Federal tort liability statute;

(v) The Ethics in Government Act of 1978;

(vi) Internal Revenue Code of 1986, section 1043 (Sale of Property to Comply with Conflict-of-Interest Requirements); and

(vii) Title 41, United States Code, section 423 (Prohibition on Former Official's Acceptance of Compensation From Contractor).

(2) Does not have any right or expectation for Federal employment solely on the basis of his or her detail;

(3) May not have access to any trade secrets or to any other nonpublic information which is of commercial value to the private sector organization from which he or she is detailed;

(4) Is subject to such regulations as the President may prescribe; and

(5) Is covered by 5 U.S.C. chapter 81, Compensation for Work Injuries, as provided in 5 U.S.C. 3704(c).

(c) Individuals detailed under this part may be supervised either by Federal or private sector managers. For example, a Federal employee on detail to a private sector organization may be supervised by a private sector manager. Likewise, a private sector employee on detail to an agency may be supervised by a Federal manager.

(d) As provided in 5 U.S.C. 3704(d), a private sector organization may not charge the Federal Government, as direct or indirect costs under a Federal contract, for the costs of pay or benefits paid by that private sector organization to an employee detailed to an agency under this part.

(e) Details may be terminated by the agency (agency head or designee) or private sector organization concerned for any reason at any time.

§ 370.107 Details to small business concerns.

(a) The head of each agency must take such actions as may be necessary to ensure that, of the details made to private sector organizations in each calendar year, at least 20 percent are to